

**Town of North Hempstead
Solid Waste Management Authority Enabling Statute**

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Mckinney's Consolidated Laws of New York Annotated [Currentness](#)

Public Authorities Law [\(Refs & Annos\)](#)

Chapter 43-A. Of the Consolidated Laws

▢ [Article 8](#). Miscellaneous Authorities [\(Refs & Annos\)](#)

→ [Title 13-F](#). Town of North Hempstead Solid Waste Management Authority [\(Refs & Annos\)](#)

→ **§ 2049-a. Short title**

This title shall be known and may be cited as the “town of North Hempstead solid waste management authority act”.

[§ 2049-b. Definitions](#)

As used in this title, unless a different meaning clearly appears from the context:

1. “Authority” shall mean the public benefit corporation created by [section two thousand forty-nine-c](#) of this title, known as the town of North Hempstead solid waste management authority.
2. “Bonds” shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.
3. “Construction” shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management-resource recovery facility; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.
4. “Cost”, as applied to any project, shall mean and include the cost of planning and design, construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the town or any municipality or state agency, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.
5. “Governing body” shall mean the members of the authority constituting and acting as the governing body of the authority.
6. “Municipality” shall mean any county, city, town, village, refuse district under the county law, improvement

district under the town law, any other such instrumentality, including any agency or public corporation of the state, any such instrumentality created under the Nassau county civil divisions act, [\[FN1\]](#) or any of the foregoing, or any combination thereof.

7. “Person” shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

8. “Project” shall mean any solid waste management-resource recovery facility of which, or any portion of which, the planning, development, financing, construction, operation or maintenance is authorized to be undertaken in whole or in part by the authority pursuant to this title.

9. “Real property” shall mean lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

10. “Resource recovery” shall mean the separation, extraction or recovery of usable materials, energy or heat from solid waste through source separation, incineration, recycling centers or other programs, projects or facilities.

11. “Revenues” shall mean all rates, fees, rents, charges and other income derived by the authority from its operations.

12. “Solid waste” shall mean all putrescible and non-putrescible solid wastes, including, but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded, has served its intended use, or is a manufacturing or mining by-product, including, but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, mining and agricultural operations and from community activities, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, [\[FN2\]](#) and waste which appears on the list of hazardous waste promulgated by the commissioner of environmental conservation pursuant to [section 27-0903 of the environmental conservation law](#).

13. “Solid waste management-resource recovery facility” or “facility” shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including, but not limited to, recycling centers, transfer stations, shredding or baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, leachate treatment facilities, plants and facilities for compacting, composting or pyrolyzation [\[FN3\]](#) of solid wastes, secure land burial facilities, landspreading facilities, surface impoundments and waste oil storage, reprocessing and rerefining facilities, incinerators and other solid waste disposal, reduction or conversion facilities, and “resource recovery equipment” and “disposal equipment” as such terms are defined in [subdivisions four and five of section 51-0903 of the environmental conservation law](#). Any such facility producing either electricity or shaft horsepower and useful thermal energy shall constitute a co-generation facility as defined in [subdivision two-a of section two of the public service law](#).

14. “Source separation” shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

15. “State” shall mean the state of New York.

16. “Town” shall mean the town of North Hempstead.

[\[FN1\]](#) L.1939, c. 273.

[\[FN2\]](#) 42 USCA § 2011 et seq.

[\[FN3\]](#) So in original. Probably should be “pyrolyzation”.

§ 2049-c. Town of North Hempstead solid waste management authority

1. A corporation known as the Town of North Hempstead solid waste management authority is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation and a public authority. Its membership shall consist of a board of seven directors comprised, ex-officio, of the members of the town board.

2. The members of the authority shall receive no compensation for their services, whether as members or officers of the authority, but shall be reimbursed for all of their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members are present. No action shall be taken except by the favorable vote of at least four members. The officers of the authority, in addition to the chairman, shall consist of a vice-chairman and a treasurer who shall be members of the authority, and a secretary, who need not be a member of the authority. The officers of the authority other than the chairman shall be selected by the members of the authority, and such officers shall serve in such capacities at the pleasure of the authority. In addition to the position of secretary, the authority may appoint and at pleasure remove an executive director, attorney and engineer, which positions shall be in the exempt class of the civil service, and such additional officers and employees as it may deem necessary, and may determine and fix their qualifications, duties and compensation, without regard to whether they are or shall also be employees or agents of the town and are or shall be being compensated as such, subject to the provisions of the civil service law. The authority may delegate to one or more of its members, officers, agents or employees any such powers as it may deem proper. The authority may also contract for expert professional services. The treasurer shall execute a bond conditioned on the faithful performance of the duties of his or her office, the amount of sufficiency of which shall be approved by the governing body and the premium for which shall be paid by the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as a member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

4. (a) The town shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the town supervisor setting forth: (1) the name of the authority; (2) the names of the members; and (3) the effective date of this title.

(b) The authority shall be perpetual in duration, except that if the certificate referred to in paragraph (a) of this subdivision is not filed with the secretary of state on or before the date specified in such paragraph, then the corporate existence of the authority shall thereupon terminate and it shall be deemed to be and shall be dissolved, and except, further, that the authority and its corporate existence may be terminated by law or by resolution of the town board, provided, however, that no such termination shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon any termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the town. In connection with any such termination pursuant to a resolution of the town board, the town supervisor shall, within thirty days of the effective date of such termination, file in the office of the secretary of state a certificate setting forth the name of the authority and the effective date of the termination.

§ 2049-d. Powers of the authority

The authority shall have the power:

1. To sue and be sued;
2. To have a seal and alter the same;
3. To acquire in the name of the authority, hold, sell, lease, mortgage or otherwise dispose of property, real, personal or mixed, or any interest therein, without limitation, for its corporate purposes;
4. To condemn, with the consent of the town board and the supervisor, in the name of the authority, pursuant to the eminent domain procedure law, any real property required by the authority to carry out the powers granted by this title provided that condemnation of any real property not located within the town shall require the consent of the board of the town where such real property is located;
5. To collect, receive, extract, transport, process, dispose of, sell, store, convey, recycle and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any facility on such terms and in such manner as the authority may deem proper;
6. To plan, develop and construct projects and to pay the cost thereof and to have the right to contract in relation thereto with municipalities or persons and to own and operate, maintain, repair, improve, reconstruct, enlarge and extend, subject to the provisions of this title, any of its projects acquired or constructed under this title, and to sell, lease, mortgage or otherwise dispose of any project or part thereof to any person or public corporation, subject to such conditions and limitations as the authority may determine to be in the public interest;
7. To assist in the planning, development and construction of and the financing of the cost of any facility whether or not such facility is to be owned or operated by the authority, which assistance may include loans to any person or public corporation;
8. To collect or receive from the United States, the state, the town, any other municipality or public corporation or person solid waste for the purpose of treatment or disposal thereof, with the right of the authority to sell and dispose of any products or by-products, including energy, of such process of treatment or disposal, as the authority may deem proper;
9. To contract with the town, other municipalities, state agencies, public corporations or persons, for the purpose of collecting, receiving, treating and disposing of solid waste, including, without limitation, to contract with municipalities, state agencies, public corporations or persons for the delivery of all solid waste generated within a stated

area to a specific facility;

10. To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, for the regulation of the use of any project or other property of the authority, which by-laws and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the authority and in the office of the clerk of the town, and to provide for the enforcement of such by-laws by legal or equitable proceedings which are or may be provided or authorized by law. In addition, the town shall have power to prescribe under the town code that violations of specific by-laws of the authority, including, without limitation, any failure to comply with any by-law requiring the payment of any fee or other charge by any person in connection with the delivery of solid waste to any facility or any other use of any facility by such person, shall constitute offenses or infractions and provide for the punishment of violations thereof by civil and criminal penalties;

11. To make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or nonnegotiable;

12. To enter on any lands, waterways or premises for the purpose of making surveys, soundings and examinations, any liability for which shall not exceed actual damages;

13. To borrow money and to issue bonds and to fund or refund the same, and to provide for the rights of the holders thereof;

14. To fix and collect rates, rentals, fees and other charges for the use of the facilities of, or services rendered by, or any commodities furnished by, the authority so as to provide revenues sufficient at all times to pay, as the same shall become due, the principal and interest on the bonds of the authority, together with the maintenance of proper reserves therefor, in addition to paying, as the same shall become due, the expenses of operating and maintaining the properties of the authority, together with proper reserves for debt service, depreciation, maintenance and contingencies and all other obligations and indebtedness of the authority;

15. To accept gifts, grants, loans or contributions from the United States, the state or any agency or instrumentality of either of them, or any municipality or from any person or public corporation, by bequest or otherwise, and to expend the proceeds for any corporate purposes of the authority; and

16. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 2049-e. Advances on behalf of authority; transfer of property to authority; acquisition of property by town for authority

1. In addition to any powers granted to it by law, the town may by resolution advance sums of money to or on behalf of the authority to defray project costs or any other costs and expenses of the authority to be incurred prior to the first issuance of bonds. Subject to the rights of any bondholders, the moneys so appropriated shall be repaid by the authority to the town at such time and in such manner as may be agreed upon between the authority and the town board.

2. The town or any other municipality may give, grant, sell, convey, loan or license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title. Any such transfer of property shall be upon such terms and conditions, subject to the rights of any bondholders, as the authority and the town or other municipality [\[FN1\]](#) may agree.

3. Notwithstanding the provisions of any other law, general, special or local, real property acquired by the authority or the town from the state may be used for any corporate purpose of the authority.

[\[FN1\]](#) So in original.

§ 2049-f. Transfer of officers and employees

Any officer or employee of the town under civil service who is selected by the authority may, with the consent of the town supervisor, be transferred to the authority and shall be eligible for such transfer and appointment, without examination, to applicable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but during the period of their employment by the authority, all contributions to such funds or system shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the personnel officer of the town shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

§ 2049-g. Governmental capacity of the authority and municipalities

The authority, the town and other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity. The construction, operation and maintenance of any project financed in whole or in part by the authority shall be deemed to be the performance of an essential governmental function by the authority acting in its governmental capacity, whether such project shall be owned or operated by the authority or by any person or public corporation.

§ 2049-h. Bonds of the authority

1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary to pay the cost of any project or for any other corporate purpose, including incidental expenses in connection therewith. The authority shall have the power and is hereby authorized to enter into such agreements and perform such acts as may be required under any applicable federal legislation to secure a federal guarantee of any bonds. The authority shall have the power from time to time to refund any bonds by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

2. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution shall provide, provided that bonds and any renewals thereof shall mature within forty years from the date of the original issuance of any such bonds. Obligations with a maturity of five years or less from the date of their original issuance may be designated [\[FN1\]](#) as notes. Bonds shall be subject to such terms of redemption, bear interest at such specified rate or rates, or, with respect to obligations designated as notes, at such rate or rates not in excess of such specified rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium or payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, may be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the state comptroller where such sale is not

to be to such comptroller, or by the state director of the budget where such sale is to be to said comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

3. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or any part of the moneys or revenues, other moneys or property of the authority to secure the payment of the bonds or of any issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) the rates, rents, fees and other charges to be fixed and collected by the authority and the amount to be raised in each year thereby and the use and disposition of revenues;

(e) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or moneys may be deposited;

(i) the terms and provisions of any trust, mortgage or deed or indenture securing the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to [section two thousand forty-nine-i](#) of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the

method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(o) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

4. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

5. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

6. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to any provisions of the bonds for registration.

7. Neither the members of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

8. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable, plus accrued interest to the next interest payment date or (b) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the next interest payment date.

[\[FN1\]](#) So in original. Probably should read “designated”.

§ 2049-i. Remedies of bondholders

Subject to any resolution or resolutions adopted pursuant to [paragraph \(j\) of subdivision three of section two thousand forty-nine-h](#) of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title or shall default in any agreement made with the holders of any issue of bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Nassau and proved or acknowledged in the same manner as a deed to be recorded, may

appoint a trustee to represent the holders of such bonds for the purpose herein provided.

2. Such trustee may and, upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding, shall in his or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to collect rents, rates and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges and to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders. The venue of any such action or proceeding shall be laid in the county of Nassau.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with holders of such bonds, shall take possession of all moneys and other property derived from such part or parts of the project and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith that the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the project.

§ 2049-j. State, town and municipalities not liable on bonds

Neither the state, town nor any other municipality or public corporation shall be liable on the bonds of the authority and such bonds shall not be a debt of the state, town or any other municipality or public corporation, and such bonds

shall contain, on the face thereof, a statement to such effect.

§ 2049-k. Moneys of the authority

All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States, the state or the town of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of [section ninety-eight-a of the state finance law](#). Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 2049-l. Bonds legal investment for fiduciaries

The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state is now or hereafter may be authorized.

§ 2049-m. Agreement with the state

The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title to fulfill the terms of any agreement made with or for the benefit of the holders of bonds or with any public corporation or person with reference to such project or part thereof, or in any way to impair the rights and remedies of bondholders until the bonds, together with the interest thereon, including interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

§ 2049-n. Agreement with the town

The town is authorized to pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the town will not limit or impair the rights hereby vested in the authority to purchase, construct, maintain,

operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any project, or any part or parts thereof, for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title and to fulfill the terms of any agreements made with the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

§ 2049-o. Exemption from taxes, assessments and certain fees

1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the town and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes or assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any property owned by the authority or the town, including improvements thereon, by any person or public corporation under a lease, lease and sublease or any other agreement shall not operate to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

2. Any bonds issued pursuant to this title together with the income therefrom as well as the property of the authority shall be exempt from taxes, except for transfer and estate taxes. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of any payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation, except for transfer and estate taxes.

§ 2049-p. Actions against authority

1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit by and in compliance with [section fifty-e of the general municipal law](#) or (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Whenever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made in accordance with the provisions of [section fifty-h of the general municipal law](#).

3. The authority may require any person, presenting for settlement an account or claim for any cause whatever against the authority, to be sworn before a member, counsel or an attorney, officer or employee of the authority designated for such purpose concerning such account or claim and, when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust all claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on its bonds, shall be the rate prescribed by [section five thousand four of the civil practice law and rules](#). Interest on payments of principal or interest on any bonds in default shall accrue at the rate borne by such bonds from the due date thereof until paid or otherwise satisfied.

§ 2049-q. Contracts

1. All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution of the governing body except as hereinafter provided. Such awards, when applicable, shall be made in compliance with paragraph (e) of [subdivision four](#) and [subdivision seven of section one hundred twenty-w of the general municipal law](#). In any construction contract, the authority may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion. An action, suit or proceeding contesting the validity of a contract awarded pursuant to this section, or the validity of the procedures relating to such award, shall be governed by the provisions of [subdivision six of section one hundred twenty-w of the general municipal law](#) and the term “municipality” as used in such subdivision six shall mean the authority.

2. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by the authority and the sufficiency of such security shall, in addition to the justification and acknowledgement, be approved by the authority. All bids or proposals shall be publicly opened by the governing body or its duly authorized agent. If the bidder whose bid or proposal has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the contract has been awarded to him on his bid or proposal or if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare his deposit forfeited. In the event that any work shall be abandoned by any contractor the authority may, if it determines that the public interest is thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made. No bid or proposal shall be accepted from or any contract awarded to any person or corporation who is in arrears to the authority or the town upon any obligation of the authority or of the town. Every contract shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. The authority may adopt, utilize, ratify and confirm any request for proposals, invitation for sealed bids, plans, specifications and notices heretofore or hereafter published by the town with respect to any proposed project. The provisions of this section shall supercede any inconsistent provisions of the general municipal law, or any other general, special or local law.

§ 2049-r. Interest in contracts prohibited

It shall be a misdemeanor for any member of the governing body or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 2049-s. Audit and annual report

In conformity with the provisions of [section five of article ten of the constitution](#), the accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant. The authority shall annually submit to the governor and state comptroller and to the state legislature a detailed report pursuant to the provisions of [section two thousand five hundred \[FN1\]](#) of title one of article nine of this chapter, and a copy of such report shall be filed with the town supervisor. The authority shall comply with the provisions of [sections two thousand five hundred one](#), [two thousand five hundred two](#), and [two](#)

[thousand five hundred three \[FN1\]](#) of title one of article nine of this chapter.

[FN1] Now [Public Authorities Law §§ 2800, 2801, 2802, 2803](#).

§ 2049-t. Limited liability

Neither the members of the governing body, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

§ 2049-u. Contracts with municipalities; powers of municipalities

1. The town and one or more municipalities within the town, or the authority and the town, shall have power to contract from time to time between or among themselves, or among themselves and with the authority in relation to the collecting, receiving, transporting, storage, processing or disposal of solid waste or for the purchase or use of any materials, energy, by-products or residue generated by or resulting from the operation of any solid waste management facility. Any such contract to which the authority and any municipality are parties may include provisions stipulating the maximum rates, rentals, fees and other charges to be collected for the use of facilities. To further the governmental and public purposes of the authority, including the implementation of any contract or proposed contract contemplated by this title, the authority and all other municipalities within the town shall have power to adopt and amend local laws imposing appropriate and reasonable limitations on competition including, without limiting the generality of the foregoing, local laws requiring that all solid waste generated or originated within their respective boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified solid waste management facility. The town shall be empowered under this section to adopt any such local law requiring the delivery of solid waste to a specified solid waste management facility. Any such local law shall be adopted in accordance with the procedure provided by the municipal home rule law, except that no such local law shall be subject to either mandatory or permissive referendum.

2. The town is hereby authorized to resell or otherwise dispose of all or any part of the materials, energy, by-products or residue purchased, received or obtained from the authority pursuant to subdivision one of this section. Any resale or other disposition may be made in such manner as the town may deem proper and upon such terms and conditions as may be agreed upon by the parties thereto.

3. The town and all other municipalities shall have power to perform such other acts, to enter into such other contracts, including contracts between or among themselves, execute such instruments and to undertake such future proceedings as shall be determined necessary or desirable to effectuate the purpose of this title, including the making of gifts, grants, loans or contributions to the authority.

4. Notwithstanding any other law, general, special or local, any contract entered into by a municipality in connection with, or in any manner relating to, any project or facility pursuant to this section may be for such term or duration, not to exceed twenty years, as may be agreed upon by the parties thereto, except that any such contract may provide that the same shall remain in full force and effect so long as the bonds issued for or in connection with such project, including any renewals thereof, shall remain outstanding or until adequate provision has been made for the payment or satisfaction thereof.

5. Any contract entered into pursuant to this section to which the authority shall be a party may be pledged by the authority as security for any issue of bonds, and may be assigned, in whole or in part, by the authority to any public corporation or person which shall construct, purchase, lease or otherwise acquire any solid waste management facility, or part thereof, financed in whole or in part by the authority.

§ 2049-v. Environmental applications, proceedings, approvals and permits

1. Any application in relation to the purposes of or contemplated by this title, or any proceeding commenced by the town, with the state department of environmental conservation, the department of transportation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the town to the authority, unless such assignment and transfer is [\[FN1\]](#) prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

[\[FN1\]](#) So in original. Probably should be “are”.

§ 2049-w. Separability

If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that is is not unconstitutional or ineffective, it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 2049-x. Effect of inconsistent provisions

In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or any local law, ordinance or resolution of the town or any other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation.

END OF DOCUMENT